

HOUSE BILL 909

E1

2lr2492

By: **Delegates Vitale and Eckardt**

Introduced and read first time: February 10, 2012

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Crimes – Synthetic Cannabinoid – Schedule I – Penalties**

3 FOR the purpose of listing certain chemical compounds, known as synthetic
4 cannabinoid, on Schedule I for purposes of designating controlled dangerous
5 substances that may not be legally used, possessed, or distributed; prohibiting a
6 person from knowingly or intentionally possessing a certain synthetic
7 cannabinoid; prohibiting a person from selling, distributing, or possessing with
8 intent to sell or distribute a certain synthetic cannabinoid; prohibiting a person
9 from manufacturing a certain synthetic cannabinoid; establishing penalties for
10 a violation of this Act; providing that this Act controls penalties for certain
11 crimes; providing for the application of this Act; defining a certain term; and
12 generally relating to controlled dangerous substances.

13 BY repealing and reenacting, with amendments,
14 Article – Criminal Law
15 Section 5–402(d)
16 Annotated Code of Maryland
17 (2002 Volume and 2011 Supplement)

18 BY adding to
19 Article – Criminal Law
20 Section 5–711
21 Annotated Code of Maryland
22 (2002 Volume and 2011 Supplement)

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
24 MARYLAND, That the Laws of Maryland read as follows:

25 **Article – Criminal Law**

26 5–402.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (d) (1) A material, compound, mixture, or preparation that contains any of
2 the following hallucinogenic or hallucinogenic-like substances is a substance listed in
3 Schedule I:

- 4 (i) bufotenine;
- 5 (ii) diethyltryptamine;
- 6 (iii) dimethyltryptamine;
- 7 (iv) 4-methyl-2, 5-dimethoxyamphetamine;
- 8 (v) ibogaine;
- 9 (vi) lysergic acid diethylamide;
- 10 (vii) marijuana;
- 11 (viii) mescaline;
- 12 (ix) peyote;
- 13 (x) psilocybin;
- 14 (xi) psilocyn;
- 15 (xii) tetrahydrocannabinol;
- 16 (xiii) thiophene analog of phencyclidine;
- 17 (xiv) 2, 5-dimethoxyamphetamine;
- 18 (xv) 4-bromo-2, 5-dimethoxyamphetamine;
- 19 (xvi) 4-methoxyamphetamine;
- 20 (xvii) 3, 4-methylenedioxyamphetamine;
- 21 (xviii) 3, 4-methylenedioxymethamphetamine (MDMA);
- 22 (xix) 5-methoxy-3, 4-methylenedioxyamphetamine;
- 23 (xx) 3, 4, 5-trimethoxyamphetamine;
- 24 (xxi) N-methyl-3-piperidyl benzilate;

- 1 (xxii) N-ethyl-3-piperidyl benzilate;
- 2 (xxiii) N-ethyl-1-phenylcyclohexylamine;
- 3 (xxiv) 1-(1-phenylcyclohexyl)-pyrrolidine;
- 4 (xxv) 1-(1-(2-thienyl)-cyclohexyl)-piperidine;
- 5 (xxvi) 1-methyl-4-phenyl-4-propionoxypiperidine (MPPP); [and]
- 6 (xxvii) 1-(2-phenylethyl)-4-phenyl-4-acetyloxypiperidine
- 7 (PEPAP);
- 8 (XXVIII) 1-[2-(4-MORPHOLINYL)ETHYL]-3-(1-NAPHTHOYL)
- 9 INDOLE (ALSO KNOWN AS **JWH-200**);
- 10 (XXIX) 1-BUTYL-3-(1-NAPHTHOYL) INDOLE (ALSO KNOWN AS
- 11 **JWH-073**);
- 12 (XXX) 1-HEXYL-3-(1-NAPHTHOYL) INDOLE (ALSO KNOWN AS
- 13 **JWH-019**);
- 14 (XXXI) 1-PENTYL-3-(1-NAPHTHOYL) INDOLE (ALSO KNOWN
- 15 AS **JWH-018**);
- 16 (XXXII) 1-PENTYL-3-(2-METHOXYPHENYLACETYL) INDOLE
- 17 (ALSO KNOWN AS **JWH-250**);
- 18 (XXXIII) 1-PENTYL-3-(4-CHLORO-1-NAPHTHOYL) INDOLE
- 19 (ALSO KNOWN AS **JWH-398**);
- 20 (XXXIV) 2-[(1R, 3S)-3-HYDROXYCYCLOHEXYL]-5-(2-
- 21 METHYLOCTAN-2-YL)PHENOL (ALSO KNOWN AS CP 47, 497 AND ITS C6, C7,
- 22 C8, AND C9 HOMOLOGUES);
- 23 (XXXV) (2-METHYL-1-PROPYL-1H-INDOL-3-YL)-1-
- 24 NAPHTHALENYL-METHANONE (ALSO KNOWN AS **JWH-015**);
- 25 (XXXVI) 1-HEXYL-3-(NAPHTHALEN-1-OYL)INDOLE (ALSO
- 26 KNOWN AS **JWH-019**);
- 27 (XXXVII) (6AR, 10AR)-9-(HYDROXYMETHYL)-6, 6-
- 28 DIMETHYL-3-(2-METHYLOCTAN-2-YL)-6A, 7, 10, 10A-TETRAHYDROBENZO[C]
- 29 CHROMEN-1-OL) (ALSO KNOWN AS **HU-210**);

1 (**XXXVIII**) DEXANABINOL (**6AS, 10AS**)–**9**–
 2 (**HYDROXYMETHYL**)– **6, 6**–**DIMETHYL**–**3**–(**2**–**METHYLOCTAN**–**2**–**YL**)–**6A, 7, 10,**
 3 **10A**– **TETRAHYDROBENZO**[**C**]**CHROMEN**–**1**–**OL** (**ALSO KNOWN AS HU**–**211**);

4 (**XXXIX**) **2**–(**3**–**HYDROXYCYCLOHEXYL**)–**5**–(**2**–
 5 **METHYLHEPTAN**–**2**–**YL**)**PHENOL**;

6 (**XL**) **2**–(**3**–**HYDROXYCYCLOHEXYL**)–**5**–(**2**–**METHYLNONAN**–**2**–
 7 **YL**)**PHENOL**; **AND**

8 (**XLI**) **2**–(**3**–**HYDROXYCYCLOHEXYL**)–**5**–(**2**–**24** **METHYLDECAN**–
 9 **2**–**YL**)**PHENOL**.

10 (2) Unless specifically excepted under this subtitle, a salt, isomer, or
 11 salt of an isomer of a substance listed in this subsection is a substance listed in
 12 Schedule I if the existence of the salt, isomer, or salt of an isomer is possible within
 13 the specific chemical designation.

14 **5–711.**

15 (**A**) (1) **IN THIS SECTION, “SYNTHETIC CANNABINOID” MEANS A**
 16 **CHEMICAL COMPOUND THAT IS CHEMICALLY SYNTHESIZED AND:**

17 (**I**) **HAS BEEN DEMONSTRATED TO HAVE BINDING ACTIVITY**
 18 **AT ONE OR MORE CANNABINOID RECEPTORS; OR**

19 (**II**) **IS A CHEMICAL ANALOG OR ISOMER OF A COMPOUND**
 20 **THAT HAS BEEN DEMONSTRATED TO HAVE BINDING ACTIVITY AT ONE OR MORE**
 21 **CANNABINOID RECEPTORS.**

22 (2) **IN THIS SECTION, “SYNTHETIC CANNABINOID” INCLUDES:**

23 (**I**) **A CONTROLLED DANGEROUS SUBSTANCE LISTED IN**
 24 **SCHEDULE I UNDER § 5–402(D)(1)(XXVIII) THROUGH (XLI) OF THIS TITLE; OR**

25 (**II**) **ANY PREPARATION, MIXTURE, OR SUBSTANCE**
 26 **CONTAINING OR INFUSED WITH ANY DETECTABLE AMOUNT OF A SUBSTANCE**
 27 **LISTED IN SCHEDULE I UNDER § 5–402(D)(1)(XXVIII) THROUGH (XLI) OF THIS**
 28 **TITLE.**

29 (**B**) **NOTWITHSTANDING OTHER PROVISIONS IN THIS ARTICLE, THIS**
 30 **SECTION CONTROLS PENALTIES FOR THE POSSESSION, SALE, DISTRIBUTION,**
 31 **POSSESSION WITH INTENT TO SELL OR DISTRIBUTE, OR MANUFACTURE OF**
 32 **SYNTHETIC CANNABINOID.**

1 **(C) (1) A PERSON MAY NOT KNOWINGLY OR INTENTIONALLY POSSESS**
2 **SYNTHETIC CANNABINOID.**

3 **(2) A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF A**
4 **MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT**
5 **EXCEEDING 1 YEAR OR A FINE NOT EXCEEDING \$1,000 OR BOTH.**

6 **(D) (1) A PERSON MAY NOT SELL, DISTRIBUTE, OR POSSESS WITH**
7 **INTENT TO SELL OR DISTRIBUTE SYNTHETIC CANNABINOID.**

8 **(2) A PERSON WHO VIOLATES PARAGRAPH (1) OF THIS**
9 **SUBSECTION WITH LESS THAN ONE-HALF OUNCE OF SYNTHETIC CANNABINOID**
10 **IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO**
11 **IMPRISONMENT NOT EXCEEDING 2 YEARS OR A FINE NOT EXCEEDING \$2,000 OR**
12 **BOTH.**

13 **(3) A PERSON WHO VIOLATES PARAGRAPH (1) OF THIS**
14 **SUBSECTION WITH AT LEAST ONE-HALF OUNCE BUT NOT MORE THAN 1 POUND**
15 **OF SYNTHETIC CANNABINOID IS GUILTY OF A FELONY AND ON CONVICTION IS**
16 **SUBJECT TO IMPRISONMENT NOT EXCEEDING 3 YEARS OR A FINE NOT**
17 **EXCEEDING \$10,000 OR BOTH.**

18 **(4) (I) A PERSON WHO VIOLATES PARAGRAPH (1) OF THIS**
19 **SUBSECTION WITH MORE THAN 1 POUND OF SYNTHETIC CANNABINOID IS**
20 **GUILTY OF A FELONY AND IS SUBJECT TO IMPRISONMENT FOR NOT LESS THAN 5**
21 **YEARS AND NOT EXCEEDING 25 YEARS OR A FINE NOT EXCEEDING \$25,000 OR**
22 **BOTH.**

23 **(II) NOTWITHSTANDING § 14-102 OF THIS ARTICLE, FOR**
24 **SENTENCING UNDER THIS PARAGRAPH, THE COURT MAY NOT:**

25 **1. IMPOSE LESS THAN THE MANDATORY MINIMUM**
26 **SENTENCE OF 5 YEARS; OR**

27 **2. SUSPEND ANY PART OF THE MANDATORY**
28 **MINIMUM SENTENCE OF 5 YEARS.**

29 **(E) (1) A PERSON MAY NOT MANUFACTURE SYNTHETIC**
30 **CANNABINOID.**

1 **(2) A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF A**
2 **FELONY AND IS SUBJECT TO IMPRISONMENT FOR NOT LESS THAN 5 YEARS AND**
3 **NOT EXCEEDING 30 YEARS OR A FINE NOT EXCEEDING \$25,000 OR BOTH.**

4 **(3) NOTWITHSTANDING § 14-102 OF THIS ARTICLE, FOR A**
5 **VIOLATION OF THIS SUBSECTION, THE COURT MAY NOT:**

6 **(I) IMPOSE LESS THAN THE MANDATORY MINIMUM**
7 **SENTENCE OF 5 YEARS; OR**

8 **(II) SUSPEND ANY PART OF THE MANDATORY MINIMUM**
9 **SENTENCE OF 5 YEARS.**

10 **(F) THIS SECTION DOES NOT APPLY TO A DRUG:**

11 **(1) APPROVED BY THE FEDERAL FOOD AND DRUG**
12 **ADMINISTRATION; OR**

13 **(2) USED IN RESEARCH BY AN INSTITUTE OF HIGHER LEARNING**
14 **OR THE NATIONAL INSTITUTES OF HEALTH.**

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
16 October 1, 2012.